

ITEM 13 - APPOINTMENTS TO COMMITTEES AND GROUPS, ELECTION OF CHAIRS AND DEPUTY CHAIRS

Appendix 1

The details in relation to proportionality are set out in the report on the agenda for this meeting. In summary appointments to Committees and Groups need to be made taking account of the principles in Section 15 Local Government and Housing Act 1989 (allocation of seats to political groups). The allocations of seats on committees are based on the principles of proportionality and the overall make-up of the Council (in line with LGA guidance regarding Independent councillors) as follows:

Labour	17
Conservative	12
Liberal Democrat and Independent Group	7
Independent	2

Membership of Audit and Governance Committee and Scrutiny Committee

Advice has been sought in relation to the requirement in the Council's constitution that members of the Scrutiny Committee cannot be members of the Audit and Governance Committee and the appointment of substitutes.

Section 15 of the Local Government and Housing Act 1989 provides that, when allocating seats to its committees the Council has to comply with the principles of proportionality so far as reasonably practicable (emphasis added).

Therefore, section 15 recognises that, in practice, it may not always be possible to allocate seats in political balance, however, the Council should aim to do so whenever possible.

CIPFA's Position Statement: Audit Committees in Local Authorities and Police 2022

This Position Statement provides that the Audit and Governance Committee in local authorities, should be independent of both the Executive and the Scrutiny functions.

The Position Statement further states:

"CIPFA expects that all local government bodies should make their best efforts to adopt the principles, aiming for effective audit committee arrangements." (emphasis added)

Therefore, CIPFA's Position Statement also recognises that, in practice, it might not always be possible for the Audit and Governance Committee to be independent from Scrutiny, though again, the Position Statement should be followed whenever possible.

North West Leicestershire District Council's Constitution

Audit and Governance Committee

The Constitution states, in Part 2, Section D7 – Audit and Governance Committee, at paragraph 1.5 "Members of the Committee should not be members of Cabinet or Scrutiny."

This reflects the legislation and the CIPFA's Position Statement.

North West Leicestershire District Council's Constitution – Scrutiny Committees

The Constitution states, in Part 2, Section D6 – Scrutiny Committees under the subheading “Composition”

“1.7 The Scrutiny Committees will each comprise 10 Councillors in Political Balance.

1.8 Members of the Scrutiny Committees must not be Cabinet Members or members of the Audit and Governance Committee.

1.9 The Chair and Deputy Chair will be appointed by Full Council annually.

1.10 The Scrutiny Committees shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.”

Therefore, there is no restriction on a Councillor(s) sitting on both Scrutiny Committees, but they should not be members of Audit and Governance Committee.

The Councillors' Substitute Scheme

The Councillors' Substitute Scheme states at paragraph 1.1

“The Council recognises that the purpose of the Local Government (Committees and Political Groups) Regulations is to ensure that, in the decision-making process, the Political Balance of and representation on Committees and Sub-Committees of the Council is maintained. This Scheme for the use of substitutes has been adopted to ensure this principle is maintained.”

The Scheme states at paragraph 2.1.2 that it does not apply to Audit and Governance Committee. Therefore, the need to have substitutes available for the Audit and Governance Committee does not arise because substitutes are not allowed on that Committee.

However, the Substitute Scheme does apply to the Scrutiny Committees. The Councillors' Substitute Scheme provides that substitutes are appointed on the basis of political balance and also sets out the number of substitutes that can be appointed.

Whilst it would be contrary to the CIPFA Position Statement, it may be possible to appoint substitutes to the Scrutiny Committees from those members that are sitting on the Audit and Governance Committee, if it can be justified that the Council has used its best efforts to adopt the principles in the CIPFA Position Statement.

Chief Finance Officer Advice

CIPFA has updated its Position Statement to promote best practice and provide clear guidance for local authorities to maximise the effectiveness of their Audit Committees. This follows a number of high profile cases of failings in governance within local authorities. It is the professional advice of the Chief Finance Officer that CIPFA's updated Position Statement should be fully adopted at North West Leicestershire District Council.

The Council faces a range of financial challenges over the medium term, so it is important to follow professional guidance. The financial challenges include:

- Making decisions to maintain its financial sustainability. Inflationary pressures and local government funding reform are expected to lead to significant funding gaps over the medium term. To maintain a balanced budget the Council will need to make some difficult decisions. It is important these decisions are subject to robust and independent scrutiny.
- The regulatory/control environment within which the Council operates is being strengthened following a number of high profile failings at councils within the local government sector. An example of this 'strengthening' is CIPFA's Guidance on Audit Committees.
- A change in its External Auditor. From 1 April 2023 Azets Audit Services, a new entrant to the local government audit market, has been appointed by the Public Sector Audit Appointments (PSAA) as the Council's external auditor. As part of their audit work, they will undertake a review of the Council's Value For Money arrangements. This will include reviewing the Council's governance processes in place for financial decision making and internal control. It is therefore important the Council is adhering to the CIPFA guidance regarding Audit Committees.

The advice from the Chief Finance Officer is the Council should adhere to the CIPFA Guidance regarding Audit Committees. It is important to keep a clear separation between Audit & Governance and Scrutiny. By keeping a clear separation between the two it demonstrates the Council is committed to a best practice governance framework and minimises the risk of potential future issues from both a Council and an individual Councillor perspective.

Conclusion

Whilst the professional advice remains that the CIPFA Position Statement should be followed and there should be a clear separation between the Scrutiny Committees and the Audit and Governance Committee, it is recognised that in this case, this could present an issue in terms of appointing substitutes. The Council's Substitute Scheme recognises that the purpose of the legislation is to ensure that the principles of political balance are maintained in representation on committees and in this case, it may be that in order to follow such principles there would have to be some overlap with Audit and Governance members sitting as substitutes on Scrutiny Committees. The CIPFA Position Statement acknowledges that authorities should use best efforts to adopt the principles of separation and therefore, provided that the main appointed committee members do not overlap, it may be justified that best efforts have been used to maintain separation whilst also ensuring political balance. Members could therefore consider adopting Audit and Governance Committee members as substitutes for the Scrutiny Committees where they do not have enough numbers to appoint separate members in such positions, provided that they have regard to the advice above.